IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 332 (S/B) of 2004

Dr. (Mrs.) Nisha Thapliyal W/o Sri G.S. Fartyal,
Presently posted as Homeopathy Medical Officer,
State Homeopathy Dispensary, Chharba via Sahaspur,
District Dehradun

.....Petitioner

Versus

1. State of Uttaranchal through Principal Secretary Department of Medical, Health & Family Welfare, Uttaranchal Shasan, Dehradun
2. Director, Homeopathy, Uttaranchal, Dehradun
3. District Homeopathy Medical Officer, Dehradun
4. Dr. Sunil Kumar Dimri serving as Homeopathy Medical Officer, State Homeopathy Dispensary. Karanprayag, District Chamoli

.....Respondents

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal,J.

Dated: March 24, 2006

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned transfer order dated 13.10.2004 passed by Respondent No.1 in so far as it relates to the petitioner which is contained in Annexure No.5 to the writ petition.

Brief facts of the case as narrated by the petitioner are that pursuant to her option for State of Uttaranchal, she joined her duties in Uttaranchal on 03.05.2001. Ultimately by means of order dated 28.07.2001 issued by Respondent No.1, petitioner was posted at District Dehradun whereby she joined her duties on 1.8.2001. Thereafter, the petitioner applied for maternity leave from 3.1.2004 to 2.5.2004 by means of application dated 2.1.2004 which was personally served in the office of Respondent No.3 on the same day. The petitioner resumed her duties on 3.5.2004 at Dehradun

and thereafter she is continuously working there. However, the maternity leave applied by the petitioner was sanctioned only on 1.10.2004 that too after repeated representations. It has been alleged by the petitioner that Respondent No.4 is having some close relations with some top ranking officers and due to this Respondent No. 1 issued one transfer order dated 13.10.2004 whereby petitioner has been transferred from Chharba (Dehradun) to Karanprayag (Chamoli) and Respondent No.4 has been accommodated in her place.

The petitioner has challenged the impugned order on the ground that the transfer order has been passed in non-compliance of government policy because according to that transfer policy the transfer normally be made upto 15th June in exceptional cases it can be made upto 30th June but in the case of the petitioner it has not been done. A perusal of the impugned transfer order dated 13.10.2004 reveals that the petitioner was transferred from District Dehradun to District Karanprayag (Chamoli) on administrative grounds. This order was stayed by this Court on 27.10.2004.

Keeping in view the facts and circumstances of the case, it is provided that the petitioner shall be allowed to continue as Assistant Registrar, Cooperative Societies, Udham Singh Nagar till the next annual general transfer is made. However, it is made clear that in the next Annual General Transfer, fresh transfer order of the petitioner shall be passed and till then, the impugned transfer order dated 13.10.2004 is quashed.

With the aforesaid observation, the writ petition is disposed of finally.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang